

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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TRUSTEES OF THE EMPIRE STATE  
CARPENTERS WELFARE, PENSION  
ANNUITY, APPRENTICESHIP,  
CHARITABLE TRUST, LABOR  
MANAGEMENT COOPERATION, AND  
SCHOLARSHIP FUNDS,

**ORDER**

12-cv-0970 (ADS)(ARL)

Plaintiffs,

-against-

ACCLAIM ACOUSTICS INC.

Defendant.

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**APPEARANCES:**

**Levy Ratner P.C.**

*Attorneys for the Plaintiff*

80 Eighth Avenue

8th Floor

New York, NY 10011-5126

By: Owen M. Rumelt, Esq., of Counsel

**NO APPEARANCE:**

Acclaim Acoustics Inc.

**SPATT, District Judge.**

The Plaintiffs commenced this action on or about February 28, 2012, asserting claims for damages pursuant to Section 502 of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. § 1132, and Section 301 of the Labor Management Relations Act of 1948 (“LMRA”), 29 U.S.C. § 185. On June 19, 2012, the Clerk of the Court noted the default of the Defendant Acclaim Acoustics Inc. On October 8, 2012, the Plaintiffs moved for a default judgment. On October 17, 2012, the Court referred this matter to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether the motion for a default

judgment should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs.

On August 8, 2013, Judge Lindsay issued a Report recommending that the Court enter a default judgment against the Defendant and that the plaintiffs be awarded (1) \$21,772.27 for delinquent contributions; (2) \$8,782.26 in interest accrued on the delinquent contributions; (3) \$4,354.45 in liquidated damages, (4) \$1,995.00 for the cost of the audit, and (5) \$2,304.04 in attorneys fees and costs, totaling \$39,208.022, plus (6) additional interest accrued on the contributions at a rate of \$7.86 per day from September 12, 2012, through the date of entry of judgment.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Lindsay's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Lindsay's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

**ORDERED**, that Judge Lindsay's Report and Recommendation is adopted in its entirety, and it is further

**ORDERED**, that the Plaintiffs' motion for an award of damages against the Defendant is granted in the amount recommended by Judge Lindsay, namely (1) \$21,772.27 for delinquent contributions, (2) \$8,782.26 in interest accrued on the delinquent contributions, (3) \$4,354.45 in

liquidated damages, (4) \$1,995.00 for the cost of the audit, and (5) \$2,304.04 in attorneys fees and costs, totaling \$39,208.022, plus (6) additional interest accrued on the contributions at a rate of \$7.86 per day from September 12, 2012, through the date of entry of judgment; and it is further

**ORDERED**, that the Clerk of the Court is directed to enter judgment as set forth above, and it is further

**ORDERED**, that upon the entry of judgment, the case is closed.

**SO ORDERED.**

Dated: Central Islip, New York  
September 3, 2013

Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge